

Remarks:

Pursuant to the Advisory Action dated January 27, 2005, claims 1-4, 6, 7, 9-21 and 25-31 remain pending in the present application (the Examiner fails to specify claims 13-19, but such claims nonetheless remain pending). Of the pending claims, claims 9, 11 and 12 have been allowed. Claims 1-4, 6, 7, 10, 13-21 and 25-31 stand rejected variously under 35 U.S.C. §102(e) and §103(a) based on Peng et al. (U.S. Patent Application Publication No. 2003/0151922) in view of various other patents.

In the Advisory Action, the Examiner indicates that the applicant's December 20, 2004 Amendment has been entered, but contends that applicant's declaration filed on December 20, 2004 under 37 CFR 1.131 is ineffective to overcome Peng et al. inasmuch as Peng et al. claims "the same patentable invention." The Examiner thus asserts that Peng et al. "can only be overcome by establishing priority of invention through interference proceedings." Applicant respectfully disagrees.

As noted in a February 9, 2005 interview involving the undersigned attorney for applicant (Walter W. Karnstein), the Examiner and Supervisory Patent Examiner Judy Nguyen, applicant asserts that the Examiner has not shown that the same subject matter is claimed. In fact, applicant specifically notes that applicant's claims recite different subject than that claimed in Peng et al. (which is not even an issued patent). Applicant thus respectfully requests reconsideration of the Examiner's determination that applicant's declaration under 37 C.F.R. 1.131 is ineffective.

Based on the February 9, 2005 Interview, applicant understands that the Examiner agrees with applicant. Accordingly, the Examiner has indicated that she will withdraw finality of the prior Office action, and issue a new Office action.

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Applicant believes that this application is now in condition for allowance, in view of the above amendments and remarks. Accordingly, applicant respectfully requests that the Examiner issue a Notice of Allowability covering the pending claims. If the Examiner has any questions, or if a further telephone interview would in any way advance prosecution of the application, please contact the undersigned attorney of record.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to Examiner R. Blackman, Group Art Unit 2851, Assistant Commissioner for Patents, at facsimile number (703) 872-9306 on February 9, 2005.


Christie A. Doolittle

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